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DIGEST OF WATER POLLUTION CONTROL LEGISLATION... NEW JERSEY

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... New Jersey

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

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DIGEST OF NEW JERSEY WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

The State Department of Health has the primary function of controlling water pollution. Among other things, it is authorized to supervise sanitary engineering facilities within the State, and make and enforce rules and regulations concerning plans and specifications, for the construction, improvement, alteration or operation of all public water supplies, all public bathing places, and of sewerage systems and disposal plants for treatment of wastes discharged into any of the waters of the State, require all such plans or specifications to be approved by it before any work is commenced; inspect all such projects during the progress thereof, and enforce compliance with such approved plans and specifications (1957 Cum. Supp., sec. 26:1A-3). 1/

It is unlawful for anyone to deposit any excremental matter, or any other polluting matter into the waters or on the banks of any river, stream, spring, or reservoir above the point from which any municipality obtains its domestic water supply. Anyone violating this section is liable to a penalty of $100 for each offense. After notice to abate or remove the pollution given by the State Department of Health, the local board of health having jurisdiction over the place where such offense is committed, the local board of health of any municipality, or any corporation engaged in the business of supplying water for sale for potable purposes, the potable water supply of which municipality or corporation is or may be affected by such offense, each week's continuance of the violation constitutes a separate offense (Sec. 58:10-1).

1/ Citations in this digest refer to the New Jersey Statutes Annotated (per.ed.) and the 1957 Cumulative Supplement thereto, unless otherwise noted.

The Division of Water Policy and Supply of the State Department of Conservation is empowered to order the sealing of any abandoned well when its condition endangers or threatens to endanger the subsurface or percolating waters. Failure to comply with such order subjects the owner to a monetary penalty (1957 Cum. Supp., sec. 58:4A-4.2).

II. ADMINISTRATIVE ORGANIZATION

A. State Department of Health

The State Department of Health is established as a principal department in the Executive Branch of the State Government (1957 Cum. Supp., sec. 26:1A-2).

The Department investigates the various methods of sewage disposal so that it can make proper recommendations relative thereto. It may require alterations to sewage treatment works. It also investigates all complaints regarding pollution of the State waters and makes inspections of such waters. When it finds that any waters are being polluted so as to cause or threaten injury to the inhabitants of the State, or that any sewage treatment works are inadequate in capacity or unit design, it notifies the alleged polluter in writing to cease such pollution and make disposition of its wastes in a manner approved by the Department, within a fixed time, but not later than five years from the date of the notice. The alleged polluter is required to comply with such notification. An aggrieved party can bring a civil action in the Superior Court at any time within three months after such notification and the Court hears such matter, and can affirm, reverse or modify the finding in whole or in part (1957 Cum. Supp., sec. 58:12-2).

The Department is also authorized to bring injunction proceedings against alleged polluters (1957 Cum. Supp., sec. 58:12-4).

The Department also has the general supervision, with reference to their purity, of all streams, lakes, ponds, wells, springs or other reservoirs in the State, together with the waters feeding the same, the waters of which are, or may be used as the source of any public water supply and may examine the same and inquire what, if any, pollution exists and its causes (Sec. 58:10-3).

The Department must approve the source of potable water supplies and the plans and specifications for the construction of water purification plants. It also supervises the operation of all water plants supplying potable water. In addition, it must approve the plans and specifications for the construction, or alterations of any water purification plants, sewer system or plant for the treatment of wastes (Sec. 58:11-2,3,4,10).

Superintendents or operators of public water treatment plants, public sewage treatment plants or public water supply systems are required to have a license from the Department. Violators of this provision may be enjoined or fined (1957 Cum. Supp., secs. 58:11-18,10-22).

A permit from the Department is necessary before anyone can locate a factory on any watershed above the point at which any public supply of potable water is taken (Sec. 58:10-17).

D. State Commissioner of Health

The State Commissioner of Health is the head and chief administrative officer of the Department. He must be a physician and is appointed by the Governor with the advice and consent of the Senate, and serves during the Governor's term of office (1957 Cum. Supp., sec. 26:1A-3).

The Commissioner is charged with the duty of enforcing all laws relating to the public health and all provisions of the Sanitary Code. He is authorized to enter upon, examine and survey, among other things, any

source of water supply, sewage disposal plant and sewage system (1957 Cum. Supp., secs. 26:1A-15, 26:1A-18). He may make laboratory analyses of water, among other things (1957 Cum. Supp., sec. 26:1A-33).

The Commissioner is also authorized, with the approval of the Governor and the Public Health Council, to apply for and accept grants from the Federal Government, and may comply with the terms thereof (1957 Cum. Supp., sec. 26:1A-36).

The Commissioner, or a member of the Department designated by him, is authorized to hold hearings. In such hearings, the Commissioner or such designated member may administer oaths and examine witnesses in any matter relating to the powers and duties of the Department, the public health, or the prevention of disease. Persons willfully giving false testimony after being sworn are guilty of perjury. The Commissioner is further empowered to issue subpoenas requiring the attendance of witnesses and the production of books and papers. Anyone failing to honor such a subpoena or to give testimony, unless such testimony incriminates him or subjects him to a fine or punishment, is liable to a penalty of $500.00 for each offense. The Attorney General prosecutes the action for the penalty when requested to do so by the Commissioner (1957 Cum. Supp., secs. 26:1A-45-49).

C. Public Health Council

The Council consists of eight members, appointed by the Governor with the advice and consent of the Senate. Two of such members must be licensed physicians and one a licensed dentist. All appointments, except those first appointed, are for seven years. The Council meets at least once each month. Four members constitute a quorum. The Council elects one of its members as Chairman. He holds such office for one year and thereafter until his successor is elected (1957 Cum. Supp., secs. 26:1A-4, 26:1A-6).

The Council is empowered to establish a Sanitary Code for the State. In addition to other matters, the Sanitary Code may contain sanitary regulations (a) prohibiting nuisances hazardous to human health, (b) prohibiting pollution of any water supply, (c) regulating the use of privies and cesspools, and (d) regulating the disposition of excremental matter (1957 Cum. Supp., sec. 26:1A-7). The provisions of the Sanitary Code have the force and effect of law (1957 Cum. Supp., sec. 26:1A-9). Each violation of the Sanitary Code is a separate offense and is punishable by a penalty of not less than $25.00 nor more than $100.00 (1957 Cum. Supp., sec. 26:1A-10).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful to place in State waters any dynamite, giant or electric powder, explosive substance, drug or poisoned bait, for the purpose of taking, killing or injuring fish. Penalty for violation is $100 for each offense (Sec. 23:5-27).

It is unlawful to allow any dyestuff, coal tar, sawdust, other refuse or poisonous substances to run into any fresh or tidal waters within the jurisdiction of the State in quantities destructive of life or disturbing to the habits of fish or birds inhabiting the same. Violation for first offense carries a penalty of $500, and subsequent offenses carries a penalty of $1000 (1957 Cum. Supp., sec. 23:5-28).

Anyone placing explosives, poisons, drugs, dyestuffs, or any other deleterious substances, or allowing the same to run into a state fish hatchery; or who maintains a privy, hogpen, barn or barnyard in which poultry or animals are kept, the drainage of which runs into a state fish hatchery, is subject to a penalty of $500 (Sec. 23:8-5).

No one is permitted to put into the Delaware River and bay lying between the States of New Jersey and Delaware and all the tributaries of such river and bay within said limits wherein the tide ebbs and flows, any explosives, poisonous substances, drug, or poison bait for the purpose of taking, killing or injuring fish, or to allow any dyestuff, coal or gas tar, sawdust, or any other deleterious substances of any kind or character to run into such waters, unless it be shown that every precaution has been used to prevent the pollution of such waters by the escape of the deleterious substances. Violation carries a fine of $200 (Secs. 23:9-18, 23:9-36, 23:9-52).

Anyone who discharges or permits the discharge of any waste into the coastal waters or tidal water bays of the State from any vessel afloat on said waters, which may tend to litter any established bathing beach or any beach customarily used for bathing purposes or to pollute the waters adjacent to any such beach, is guilty of being disorderly (1957 Cum. Supp., sec. 2A:170-69.1).

No one is permitted to discharge into any fresh water, any sewage, excremental matter, domestic refuse or other polluting matter. "Fresh water" is defined as water used for human consumption, whether or not it is found in a stream where the tide ebbs and flows. The prohibition in this section does not apply to the effluent or other matter discharged from any sewage disposal or sewage treatment plant approved by the Department, or which has been approved prior to April 16, 1908, by the State Sewerage Commission. Violation carries a penalty of $50 for each offense (Secs. 58:10-5, 58:10-6).

It is unlawful for anyone to discharge effluent from any sewage disposal system or sewage treatment plant into any of the potable waters of the State. Anyone not making the necessary improvements to its system

in the time specified by the Department so as to render such effluent satisfactory to it, is liable to a penalty of $100 (Sec. 58:10-10).

It is a public nuisance for anyone to permit the discharge or escape of petroleum refinery refuse commonly called "sludge acid" into any river, stream, lake or other body of water, or any tidal waters within or bordering upon the State (Sec. 58:10-22).

The various statutes which prohibit the pollution of waters, the discharge of effluents and the construction and operation of waterworks and disposal plants without a license, in addition to providing for monetary penalties for violation, also provide for injunctive relief (1957 Cum. Supp., secs. 58:10-4, 58:10-8, 58:10-12, 58:10-20, 58:11-18).

It is unlawful for anyone to maintain any supply of water used for drinking or culinary purposes which is polluted, contaminated or impure (1957 Cum. Supp., sec. 26:3B-1).

No one is permitted to maintain or use any privy vault, septic tank, or other means of disposal of human excrement, from which the excremental matter flows upon the surface of the ground or gains access to the source of any public water supply or to any well or spring, used as a private potable water supply (1957 Cum. Supp., sec. 26:3B-2).

No one is permitted to deposit or allow to remain on the surface of the ground any human excrement or material containing human excrement or dispose of or place any such material where it can gain access to the source of any public water supply or to any well or spring used as a private potable water supply (1957 Cum. Supp., sec. 26:3B-3).

No one is allowed to deposit, store, allow to accumulate, or provide storage facilities for human excrement, any decomposable animal or vegetable matter, domestic, factory, workshop, mill or slaughterhouse refuse, or any

other polluting matter so that it gains access to any well, spring, stream, lake or other body of water including the ocean and its estuaries, in such manner as to cause or threaten injury to any of the inhabitants of the State. (1957 Cum. Supp., sec. 26:3B-4).

The above three sections do not apply to the effluents from sewage or industrial waste treatment plants, installed in accordance with the requirements of the law and operated in accordance with the rules and regulations of the State Department of Health or the Passaic Valley Sewerage Commission (1957 Cum. Supp., sec. 26:3B-8).

No one is permitted to knowingly maintain any pool, ditch, stream, or other body of water, or any cistern, privy vault, cesspool or other receptacle, containing liquid in which mosquitoes are breeding (1957 Cum. Supp., sec. 26:3B-6).

Violation of sections 26:3B-1,2,3,4,6 carries a penalty for first offense of from $10 to $50, and for subsequent offenses of from $25 to $100. Each day the violation continues is a separate offense (1957 Cum. Supp., sec. 26:3B-10).

It is a misdemeanor:

To throw into any reservoir or into the waters of any pond, lake, brook, creek or river which runs through or along the border of any municipality, the waters of which are distributed for public use, the carcass of a dead animal or any offal or offensive matter, calculated to render the waters impure or to create noxious or offensive smells;

To deposit any such carcass, etc. that the washing or waste therefrom may be conveyed into any such pond, lake, brook, creek, river or reservoir;

To throw into the waters of any pond, lake, brook, creek or river of the State, the waters of which may be used for the cutting and harvesting of ice, the carcass of a dead animal or any offal or offensive matter, calculated to render the waters impure or to create noxious or offensive smells;

To maliciously or willfully pollute, or render impure the ice in front of the lands of persons having ice houses; or

To connect a watercloset with any sewer or other means whereby the contents thereof may be conveyed into any such pond, lake, brook, creek or river (Secs. 2A:134-3, 2A:134-4).

It is a misdemeanor to cast any mud, earth, soil, ashes, gravel refuse, rock or other solid substance into the waters of the Delaware River below the head of navigation, or into the waters of the Hudson River at any point west of the line between the States of New Jersey and New York, unless it is placed behind a bulkhead for filling, by the side of a bulkhead to be thrown over the same, or be so confined that no dirt or refuse can escape into the waters of the river. This section does not apply to anyone acting under an Act of the U.S. Congress or under the authority of the Secretary of Defense of the United States; nor does this section interfere with improvements made upon lands under water granted or leased by the Planning and Development Council in the Department of Conservation and Economic Development of the State, or which have been granted or leased by statutory authority, but all such improvements must be so made as to deposit filling behind a bulkhead, so that no portion of the filling escape onto lands under water adjoining the lands so granted or leased (Sec. 2A: 128-5).

IV. INTERSTATE COMPACTS

The Interstate Commission on the Delaware River Basin is created for the purposes, among others, of encouraging reciprocal agreements between the States in the Delaware River Basin concerning the establishment of standards of purity and classifications of waters, and of encouraging uniform water pollution legislation (1957 Cum. Supp., secs. 58:18-1-23).

New Jersey is a party to the Tri-State compact between the States of Connecticut, New York and New Jersey, creating the Interstate Sanitation Commission, relating to the control of future pollution and the abatement of existing pollution in the tidal and coastal waters of the adjacent portions of the signatory states (Secs. 32:18-1-22).